



U.S. Department of Justice

EPA Region 5 Records Ctr.



275666

Environment and Natural Resources Division

BSG:AML
DJ No. 90-11-3-1620/2

Environmental Enforcement Section
P.O. Box 7611 Telephone: (202) 514-4213
Washington, D.C. 20044-7611 Facsimile: (202) 616-6584

July 30, 2001

VIA FEDERAL EXPRESS

Clerk's Office
United States District Court for the Southern District of Ohio
Rm. 324
Potter Stewart Courthouse
100 E. 5th St.
Cincinnati, OH 45202

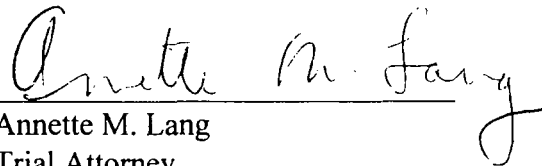
Re: United States v. Aeronca, Inc. 1:01 CV 00439
Waiver of Service of Summons

Dear Clerk:

Enclosed please find the original and two copies of the Waiver of Service of Summons that each of the Defendants in the above-captioned action signed. Mr. Northrup signed for Aeronca, Inc.; Mr. Conte signed for Clarke Container, Inc. and Clarke's Incinerators, Inc.; Mr. Gibbons signed for John J. Whitton Trucking, Inc. Under the Federal Rules of Civil Procedure, the Defendants' responses (Answers or Motions, as appropriate) to the complaints will be due on September 12, 2001. If you could return one file-stamped of each waiver in the enclosed envelope, I would appreciate it.

Thank you for your kind attention to this matter.

Sincerely,


Annette M. Lang
Trial Attorney

cc: David Northrup
Jonathan Conte
Kevin Hopper
Craig Melodia

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AERONCA, INC. (f/k/a Aeronca
Manufacturing Corp. f/k/a/ Aeronca
Aircraft),

CLARKE CONTAINER, INC.,

CLARKE'S INCINERATORS, INC.,

JOHN J. WHITTON TRUCKING, INC.,

Defendants.

CIVIL ACTION NO. 1:01CV00439
JUDGE BECKWITH

WAIVER OF SERVICE OF SUMMONS

To: United States Department of Justice

I acknowledge receipt of your request that I waive service of a summons in the action entitled United States v. Aeronca, Inc. et al., in the United States District Court for the Southern District of Ohio. I have also received a copy of the complaint in the action, two copies of this waiver, and a means by which I can return this signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served upon you within 60 days after July 12, 2001, the date on which the United States sent the request for waiver to Aeronca, Inc.

On Behalf of: Aeronca, Inc.

Signature: David E. Northrop Date: 7-18-01
Name: David E. Northrop
Title: Attorney for Aeronca, Inc.
Address: Porter, Wright, Morris and Arthur
41 S. High St.
Columbus, Ohio 43215

SEE BELOW FOR IMPORTANT INFORMATION

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause can be shown for the defendant's failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had actually been served when the request for waiver of service was received.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
AERONCA, INC. (f/k/a Aeronca)	
Manufacturing Corp. f/k/a/ Aeronca)	CIVIL ACTION NO. 1:01CV00439
Aircraft),)	JUDGE BECKWITH
CLARKE CONTAINER, INC.,)	
CLARKE'S INCINERATORS, INC.,)	
JOHN J. WHITTON TRUCKING, INC.,)	
)	
Defendants.)	
)	

WAIVER OF SERVICE OF SUMMONS

To: United States Department of Justice

I acknowledge receipt of your request that I waive service of a summons in the action entitled United States v. Aeronca, Inc. et al., in the United States District Court for the Southern District of Ohio. I have also received a copy of the complaint in the action, two copies of this waiver, and a means by which I can return this signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I (or the entities on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the parties on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served upon you within 60 days after July 12, 2001, the date on which the United States sent the request for waiver to Clarke Container, Inc. and Clarke's Incinerators, Inc.

On Behalf of: Clarke Container, Inc. and Clarke's Incinerators, Inc.

Signature: Jonathan A. Conte Date: 7/24/01
Name: Jonathan A. Conte
Title: Attorney
Address: 201 East Fifth St, Suite 1700
Cincinnati, Ohio 45202

SEE BELOW FOR IMPORTANT INFORMATION

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause can be shown for the defendant's failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had actually been served when the request for waiver of service was received.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AERONCA, INC. (f/k/a Aeronca
Manufacturing Corp. f/k/a/ Aeronca
Aircraft),

CLARKE CONTAINER, INC.,
CLARKE'S INCINERATORS, INC.,
JOHN J. WHITTON TRUCKING, INC.,

Defendants.

CIVIL ACTION NO. 1:01CV00439
JUDGE BECKWITH

WAIVER OF SERVICE OF SUMMONS

To: United States Department of Justice

I acknowledge receipt of your request that I waive service of a summons in the action entitled United States v. Aeronca, Inc. et al., in the United States District Court for the Southern District of Ohio. I have also received a copy of the complaint in the action, two copies of this waiver, and a means by which I can return this signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served upon you within 60 days after July 12, 2001, the date on which the United States sent the request for waiver to John J. Whitton Trucking, Inc.

On Behalf of: John J. Whitton Trucking, Inc.

Signature: Rodney G. Gibbons Date: 7/17/01
Name: Rodney G. Gibbons
Title: General Manager
Address: 1478 Fitzpatrick Street
Cincinnati, Ohio 45204

SEE BELOW FOR IMPORTANT INFORMATION

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause can be shown for the defendant's failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had actually been served when the request for waiver of service was received.

PORTER WRIGHT MORRIS & ARTHUR, LLP
Attorneys & Counselors at Law

Lang

David E. Northrop
614-221-2072
dnorthrop@porterwright.com

41 South High Street
Columbus, Ohio 43215-6194

Facsimile: 614-221-2100
Toll Free: 800-533-2794

July 18, 2001

Annette M. Lang
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Dept. of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

Re: United States v. Aeronca, Inc., No 1:01CV00439

Dear Annette:

Enclosed is the Waiver of Service of Summons in the above-captioned case bearing my signature on behalf of Aeronca, Inc.

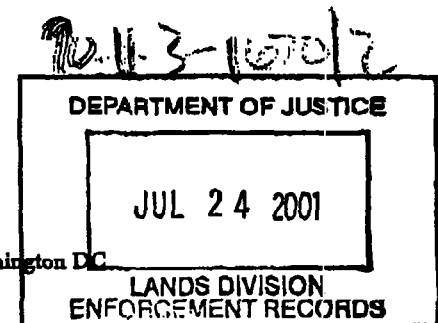
Yours truly,

Dave N.

David E. Northrop

cc: John Furbay (w/o encl)

Cincinnati • Cleveland • Columbus • Dayton • Naples, FL • Washington DC
www.porterwright.com



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AERONCA, INC. (f/k/a Aeronca
Manufacturing Corp. f/k/a/ Aeronca
Aircraft),

CLARKE CONTAINER, INC.,
CLARKE'S INCINERATORS, INC.,
JOHN J. WHITTON TRUCKING, INC.,

Defendants.

CIVIL ACTION NO. 1:01CV00439
JUDGE BECKWITH

WAIVER OF SERVICE OF SUMMONS

To: United States Department of Justice

I acknowledge receipt of your request that I waive service of a summons in the action entitled United States v. Aeronca, Inc. et al., in the United States District Court for the Southern District of Ohio. I have also received a copy of the complaint in the action, two copies of this waiver, and a means by which I can return this signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served upon you within 60 days after July 12, 2001, the date on which the United States sent the request for waiver to Aeronca, Inc.

On Behalf of: Aeronca, Inc.

Signature: David E. Northrop Date: 7-18-01
Name: David E. Northrop
Title: Attorney for Aeronca, Inc.
Address: Porter, Wright, Morris and Arthur
41 S. High St.
Columbus, Ohio 43215

SEE BELOW FOR IMPORTANT INFORMATION

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause can be shown for the defendant's failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had actually been served when the request for waiver of service was received.

BLANK ROME COMISKY & MCCAULEY LLP

Counselors at Law

Direct Dial:

Eynail:

Delaware
Florida
Maryland
New Jersey
New York
Ohio
Pennsylvania
Washington, DC

July 24, 2001

Via Fax & Federal Express

Ms. Annette Lang
United States Department of Justice
Environmental Enforcement Section
Environment & Natural Resources Div.
1425 New York Avenue, N.W.
Washington, D.C. 20005

RE: **United States v. Aeronca, Inc., et al.**
Civil Action No. 1:01 CV 00439

Dear Annette:


Pursuant to your letter of July 12, 2001, and my voice mail from earlier today, our client is requesting one additional week to prepare and submit a counter-offer to the United States' demand of \$716,272. Thus, we intend to submit the financial information requested in your July 12, 1001 letter.

I have also enclosed a signed Waiver of Service for your records.

Please call if you have any questions.

Sincerely,

BLANK ROME COMISKY & MCCAULEY



Jonathan Conte

JC:mfm

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

AERONCA, INC. (f/k/a Aeronca
Manufacturing Corp. f/k/a/ Aeronca
Aircraft),

CLARKE CONTAINER, INC.,
CLARKE'S INCINERATORS, INC.,
JOHN J. WHITTON TRUCKING, INC.,

Defendants.

CIVIL ACTION NO. 1:01CV00439
JUDGE BECKWITH

WAIVER OF SERVICE OF SUMMONS

To: United States Department of Justice

I acknowledge receipt of your request that I waive service of a summons in the action entitled United States v. Aeronca, Inc. et al., in the United States District Court for the Southern District of Ohio. I have also received a copy of the complaint in the action, two copies of this waiver, and a means by which I can return this signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit, by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4 of the Federal Rules of Civil Procedure.

I (or the entities on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the parties on whose behalf I am acting) if an answer or motion under Rule 12 of the Federal Rules of Civil Procedure is not served upon you within 60 days after July 12, 2001, the date on which the United States sent the request for waiver to Clarke Container, Inc. and Clarke's Incinerators, Inc.

On Behalf of: Clarke Container, Inc. and Clarke's Incinerators, Inc.

Signature: Jonathan A. Conte Date: 7/24/01
Name: Jonathan A. Conte
Title: Attorney
Address: 201 East Fifth St., Suite 1700
Cincinnati, Ohio 45202

SEE BELOW FOR IMPORTANT INFORMATION

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the costs of such service unless good cause can be shown for the defendant's failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had actually been served when the request for waiver of service was received.